

UNITED STATES DISTRICT COURT
For the
Southern District of Texas

**JOSH MCDOWELL & LILIANA
MCDOWELL**

Plaintiffs

**BATH & BODYWORKS, LLC, BATH &)
BODY WORKS, INC, RETAIL STORE)
OPERATIONS, INC., BEAUTY) Civil Action No. 4:24-cv-00401
SPECIALTY HOLDING, LLC, GLOBAL)
TECH INDUSTRIES, INC., L BRANDS, INC.)
AND ALENE CANDLES INC.)
Defendant(s))**

**DEFENDANT, ALENE CANDLES, INC.’S, MOTION FOR LEAVE TO
WITHDRAW/DISREGARD DOCUMENT 11**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Alene Candles, Inc. (hereinafter “Defendant”), a Defendant in the above-styled and numbered cause, and files this Motion for Leave to Withdraw/Disregard Document 11, and in support thereof would show unto the Court the following:

I. FACTUAL BACKGROUND AND REQUEST FOR RELIEF

On or about March 12, 2024, Defendant filed Document 11. Document 11 is Defendant’s Original Response to Plaintiffs’ Original Complaint. However, when filing Document 11 with the court, Defendant’s counsel’s paralegal incorrectly clicked on the box “Answer to **Amended Complaint/Counter Claim/Cross Claim Doc 6, Amended Complaint**”. The paralegal should have clicked on the box “Answer to **Complaint Doc 1**”. Upon realizing her error, she immediately refiled Defendant’s Original Response to Plaintiffs’ Original Complaint (Doc 12). See Exhibit A.

Defendant has not been served with Plaintiffs' Amended Complaint and, so therefore, could not have responded to the same.

In light of the above, Doc 11 was filed improperly filed and the error can be corrected if the court would allow Defendant to withdraw the same or entering an order that Document 11 be disregarded.

II. CONCLUSION

For the above noted reasons, Defendant requests that Document 11 be withdrawn/disregarded in the above-styled and numbered cause.

Respectfully submitted,

J. DIAMOND AND ASSOCIATES, PLLC

/s/ Jeffrey L. Diamond

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Attorney for Defendant

ALENE CANDLES, INC

CERTIFICATE OF CONFERENCE

I hereby certify that the undersigned conferred, or attempted to confer, with all known counsel of record, and he/she/they has/have not responded – thus, I do not know whether he/she/they is/are unopposed or opposed to the substance of this Motion.

/s/ Jeffrey L. Diamond

Jeffrey L. Diamond

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was sent pursuant to the Texas Rules of Civil Procedure via facsimile, hand-delivered, email and/or deposited in an official depository of the United States Postal Service, in a postage-paid wrapper, certified mail, return receipt requested, properly addressed to counsel of record on the 28th day of March, 2024.

Via E-Service: service@mjalawyer.com

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